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GARLICK HARRISON & MARKISON			EXAMINER	
P.O. BOX 160727			MATTIS, JASON E	
AUSTIN, TX 78716-0727				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MO-HAN FONG and GENG WU

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Appeal 2009-007639  
Application 09/833,864  
Technology Center 2400

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Before MAHSHID D. SAADAT, CARLA M. KRIVAK,  
and CARL W. WHITHEAD, JR., *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

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<sup>1</sup> The two month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-20, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

## STATEMENT OF THE CASE

Appellants' invention relates to base station controllers and to methods for operating a wireless communication system and managing data buffers in the wireless communication system.

Claim 1, which is illustrative of the invention, reads as follows:

1. A method of operating a wireless communication system to service high data rate forward link transmissions for a mobile station, the method comprising:

determining an active set of base stations for servicing the mobile station;

downloading a group of blocks of data to a central buffer that services the active set of base stations;

for each of the active set of base stations, downloading a plurality of blocks of data of the group of blocks of data from the central buffer to a respective distributed buffer of the base station, wherein each block of data of the plurality of blocks of data includes a respective sequence number, and wherein a first block of data of the plurality of blocks of data includes an initial sequence number;

transmitting blocks of data from a serving base station of the active set of base stations to the mobile station;

receiving a sequence number from the mobile station for each block of data successfully received by the mobile station; and

when the sequence number of a block of data successfully received by the mobile station exceeds the initial sequence number by a threshold value, downloading a next

plurality of blocks of data of the group of blocks of data from the central buffer to the respective distributed buffer of each base station of the active set of base stations.

The Examiner relies on the following prior art in rejecting the claims:

Kim	US 6,052,713	Apr. 18, 2000
Haumont	US 2001/0012279 A1	Aug. 9, 2001
Strawczynski	US 2002/0012334 A1	Jan. 31, 2002
Kumar	US 6,507,572 B1	Jan. 14, 2003
Farley	US 6,553,032 B1	Apr. 22, 2003

Claims 1-5 and 13-17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Haumont in view of Kim and Farley.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Haumont in view of Kim and Farley and further in view of Strawczynski.

Claims 8, 11, 12, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Haumont in view of Kim.

Claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Haumont in view of Kim and further in view of Kumar.

Claim 20 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Haumont in view of Kim and further in view of Strawczynski.

Rather than repeat the arguments here, we make reference to the Brief (filed Jan. 16, 2007) and the Answer (mailed Jul. 12, 2007) for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Brief have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

## ISSUE

Appellants argue the claims together (Br. 12-18). Therefore, we select claim 1 as the representative claim, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii). The ultimate issue raised by Appellants' arguments is whether the Examiner erred in rejecting claim 1 as unpatentable over the combination of Haumont with Kim and Farley.

## ANALYSIS

Appellants contend that "Haumont . . . teaches against providing the same data to each base station coupled to a controller," as required by claim 1 (Br. 12). Appellants point to Haumont's recitation that the

"problem [of lost data packets] could be overcome by transmitting all data packets to a group of neighbouring base transceiver stations. However this proposal has the disadvantage that a high buffer overhead would be required to store the transmitted data packets. It is preferred that the buffer overhead is minimised."

(Br. 12 (quoting Haumont ¶ [0005]) (brackets in original) (emphasis omitted)). The Examiner responds that

Although Haumont et al. does disclose that it is undesirable to transmit "all data packets" to a group of neighboring base station transceivers (See page 1 paragraph 5 of Haumont et al.), the invention of Haumont et al. overcomes this problem by only transmitting "some of the packets of data" to a group of neighboring base station transceivers (See page 1 paragraph 10 of Haumont et al.).

(Ans. 20). We agree with the Examiner and adopt the Examiner's findings as our own.

Appellants make various contentions regarding the disclosures of Haumont, Kim, and Farley individually (Br. 13-16). The Examiner explains

the applicability of the specific passages relied upon and states that the rejection is based on the combination of Haumont, Kim, and Farley, and not on any one of them individually (*see* Ans. 20-22). We agree with the Examiner and find the Examiner's findings and explanations to be reasonable. "[O]ne cannot show non-obviousness by attacking references individually where, as here, the rejections are based on [a] combination[] of references." *In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

Appellants further assert that in combining Haumont, Kim, and Farley the Examiner "sets out motivations improperly based upon knowledge of Appellant's [sic] claimed invention" (Br. 17). In response, the Examiner discusses the advantages of the techniques described by Haumont and Farley, and how those advantages formed the basis for the motivation to combine (Ans. 23-24). We find the Examiner's explanations and findings to be reasonable and adopt them as our own. We further note that the combination of claim 1 is a combination of familiar elements according to known methods that does no more than yield predictable results, *see KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007), that can be implemented by a person of ordinary skill in the art," *see id.* at 417.

## CONCLUSION

On the record before us, we conclude that the Examiner did not err in rejecting claim 1, and that the Examiner did not err in rejecting claims 2-20, which were not separately argued by Appellants.

## ORDER

The decision of the Examiner rejecting claims 1-20 is affirmed.

Appeal 2009-007639  
Application 09/833,864

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

babc

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